

Chevy Chase Village Board of Managers

January 14, 2008

BOARD OF MANAGERS

Douglas B. Kamerow, Chair	Present
David L. Winstead, Vice Chair	Present
Susie Eig, Secretary	Present
Gail S. Feldman, Treasurer	Present
Betsy Stephens, Assistant Treasurer	Present
Peter M. Yeo, Board Member	Present
Robert L. Jones, Board Member	Present

STAFF

David R. Podolsky, Legal Counsel	Present
Ronald M. Bolt, Assistant Legal Counsel	Present
Geoffrey B. Biddle, Village Manager	Present
Roy A. Gordon, Police Chief	Present
Shana R. Davis-Cook, Director of Administration	Present
Michael W. Younes, Capital Projects	Present
Doris M. Lyerly, Permitting and Code Enforcement Specialist	Present
Demetri Protos, Finance and Accounting Specialist	Present

Douglas B. Kamerow, Chair of the Chevy Chase Village Board of Managers, called the meeting to order at 7:01 p.m.

Approval of Minutes from the December 10, 2007 Regular Board Meeting

Ms. Eig submitted changes to the minutes, which were provided to the Board at the meeting. Discussion followed.

Ms. Feldman made a motion to approve the amended minutes of the December 10, 2007 regular Board meeting. Ms. Stephens seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.

Treasurer's Report

The Treasurer's report was distributed to the Board prior to the meeting. Discussion followed.

Committee Reports

None.

Decisions on Previous Appeals

None.

Appeals

A-4880 (Extension Request): Mr. and Mrs. Kenneth Kaufman, 6311 Broad Branch Road

Demolish a detached garage located in the rear yard of the property. Mr. Kaufman presented the request, explained why the work could not be performed in the timeframe originally permitted by the Board, and stated that there have been no material changes in circumstances or in the project proposal. Mr. Jones stated that he felt the two year timeframe requested was excessive because the applicants had already received one extension. Discussion followed regarding the extension timeframe requested by the applicants.

Mr. Jones made a motion to direct Counsel to draft a decision approving a one-year extension to demolish a detached garage located in the rear yard of the property. Ms. Stephens seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.

W-3: Mr. Price B. Floyd and Ms. Elizabeth Waters, 122 Hesketh Street—applicants seek a waiver from the application of the moratorium on the issuance of demolition permits to allow the demolition of the existing detached garage located in the rear yard of the property; and A-5346: demolish an existing detached garage located in the rear yard of the property. Sue Schneider, the applicants' architect, and Ms. Waters presented the requests. Discussion followed.

Ms. Eig made a motion to direct Counsel to draft a decision approving the request for a waiver from the application of the moratorium on the issuance of demolition permits to allow the demolition of the existing detached garage located in the rear yard of the property, and a decision approving the request to demolish the existing detached garage located in the rear yard of the property. Ms. Stephens seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed. The applicants requested an expedited decision.

A-5347: Mr. Jerome H. Powell and Ms. Elissa A. Leonard, 37 West Lenox Street Demolish 71% of the exterior features of the existing main residence. Todd Brown, Legal Counsel for the applicants and Stephens Muse of Muse Architects presented the request. Discussion followed regarding the process of demolition.

Susan Gorman of 45 West Lenox Street noted that the subject property's side yard abuts public property and asked if the security fence would be on private property or in the public space. Mr. Brown responded that the security fence would be installed on private property. Mr. Biddle added that the Cedar Parkway right-of-way extends over to the Chevy Chase Club property, and that he would require installation of a security fence on the subject property thereby demarcating the public right-of-way.

Penny Mallory of 17 Magnolia Parkway asked if there were any trees that might be affected by the proposed construction. Mr. Biddle stated that the owners and their contractors have been working with the Village to develop a detailed tree preservation plan. Discussion followed.

Ms. Eig made a motion to direct Counsel to draft a decision approving the request to demolish 71% of the exterior features of the existing main residence, provided applicable

building permits are issued for all building work. Mr. Jones seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed. The applicants requested an expedited decision.

Old Business

Resolution No. 01-01-08: Ordinance to extend a temporary moratorium on the processing of applications for permits for demolition and/or construction or erection of buildings or other structures. Mr. Podolsky advised that the resolution would extend the existing moratorium through April 30, 2008.

Heidi Azad of Belmont Avenue asked why the moratorium was being extended. Dr. Kamerow responded that the Board had not completed its work on potential new regulations. Ms. Azad asked what the estimated timeframe was for new regulations. Dr. Kamerow and Mr. Yeo explained the history of the Board's building regulations discussions. Discussion followed.

Ms. Feldman made a motion to approve Resolution No. 01-01-08. Mr. Winstead seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Mr. Yeo and Mr. Jones voted in favor of the motion. Ms. Stephens abstained. The motion passed.

Building Regulations Review

See Appendix A.

New Business

None.

Chairman's Report

None.

Manager's Report

Mr. Biddle introduced Demetri Protos, the new Finance and Accounting Specialist.

Contract Authorization—Mr. Biddle requested authorization to enter into a contract for the purchase of an air compressor with necessary accessories in the amount of \$13,154, to be funded from the public works department budget and speed camera revenue. **The Board provided unanimous approval of the purchase.**

Draft FY2009 Budget Discussion—Mr. Biddle led a discussion of the preliminary budget for FY2009, which was circulated to the Board prior to the meeting. He noted that the budget did not require a tax rate increase, nor would it allow for a cut in taxes. He cautioned that a future tax rate increase might be appropriate.

Mr. Biddle explained the tax calculations in more detail. Dr. Kamerow noted the importance of making sure the residents understood the amount of revenue coming in from the speed camera citations, and what the law allows those funds to be used for.

Mr. Biddle stated that personnel and ongoing costs will warrant the need for an increase in the tax rate in future years. From FY2008 to FY2009 there will be minimal program changes except for the addition of full-time personnel. He explained the capital projects included in the budget. Mr. Biddle stated that, while not included in this first draft of the budget, he would like to include funding for evening security of the building and a survey of the underground utilities. Discussion followed.

Fiber Optic Cables—Mr. Yeo asked for an update on installation of fiber optic technology. Mr. Biddle replied that he hoped to have the utility survey conducted prior to further discussions with *Verizon* regarding fiber optic technology. Discussion followed.

Brookville Road Walkway—Mr. Biddle advised that he hopes to schedule a meeting in late January or early February with officials from the State Highway Administration and the Historic Preservation Commission to work on issues regarding the walkway.

Wohlfarth Property—Mr. Biddle stated that he had a meeting scheduled with Brenda Sandberg the morning of January 15, which will include a discussion about scheduling upcoming charettes.

Police Report

The monthly Police Report was distributed to the Board prior to the meeting. Mr. Biddle provided an update of the speed camera program and he advised that permits had been received from the State Highway Administration to allow installation of the fixed-pole cameras on Connecticut Avenue. He said that the cameras should be installed and operational by February 1, 2008. Discussion followed regarding the speed camera program.

Ms. Stephens made a motion to adjourn the meeting. Dr. Kamerow seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed. The meeting adjourned at 9:57 p.m.

Secretary, Chevy Chase Village Board of Managers

Final.

CHEVY CHASE VILLAGE

CHEVY CHASE VILLAGE BOARD OF MANAGERS MEETING

Chevy Chase, Maryland
Monday, January 14, 2008

APPENDIX A

PARTICIPANTS:

Board of Managers:

DOUGLAS B. KAMEROW, Chair

DAVID L. WINSTEAD, Vice Chair

SUSIE EIG, Secretary

GAIL S. FELDMAN, Treasurer

BETSY STEPHENS, Assistant Treasurer

PETER M. YEO, Board Member

ROBERT L. JONES, Board Member

Staff:

DAVID R. PODOLSKY, Legal Counsel

RONALD M. BOLT, Assistant Legal Counsel

GEOFFREY B. RIDDLE, Village Manager

ROY A. GORDON, Police Chief

SHANA R. DAVIS-COOK, Director of
Administration

MICHAEL W. YOUNES, Capital Projects

DORIS M. LYERLY, Permitting and Code
Enforcement Specialist

DEMETRI PROTOS, Finance and Accounting
Specialist

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P R O C E E D I N G S

(After 7:01 p.m.)

THE CHAIR: Thanks Mike. So we have asked counsel to prepare an extension to the moratorium. This is an ordinance that we are devoting on which will extend the moratorium, identically to the way it is now, is that correct?

SPEAKER: Yes.

THE CHAIR: Through the 30th of April, is that correct? So are there comments from people here, or from counsel, starting with the front row. Yes.

MS. AZAD: Yes.

THE CHAIR: Could you stand and identify yourself?

MS. AZAD: Yes sir, my question --

THE CHAIR: Who are you please --

MS. AZAD: I am sorry, my name is Heidi Azad.

THE CHAIR: And where do you live?

MS. AZAD: I am from Belmont Avenue. My question is why does the _____ extend the moratorium?

THE CHAIR: _____ regulation. The idea behind the --

MS. AZAD: I apologize for _____ the background would you go over it briefly?

THE CHAIR: Okay, brief background is --

MS. AZAD: Okay.

THE CHAIR: Really brief background is there are neighboring jurisdictions especially but a few cases in Chevy Chase Village where people have bought small houses and torn them down to

build giant houses. They have upset the neighbors because they were felt to be out of scale with the current neighborhood.

So the second issue is that the state of Maryland gave local jurisdictions the power, for the first time, to actually regulate some of these issues which we didn't have before.

And so, we decided we would try -- emphasis try -- to come up with some useful new regulations that would protect everybody's interest, meaning people who want to extend their houses reasonably could, and people who want to build giant mansions on small lots couldn't.

It is not so easy to do that, it turns out. And so, although we expected it to take a reasonable amount of time, it is going to take slightly more time. So that is why we are hoping -- emphasis hoping -- to get this done by the end of April and that is why we are extending this moratorium. All right, yes.

MS. AZAD: Certainly helped me. Thank you very much for educating me. Is there any ETA _____ or can we get any kind of information _____ end of April also - _____ extension?

THE CHAIR: Well, you can go on the website or in the Village Crier, there are a number of -- I guess we're in the middle of a process which you will see continuously, as we finish with this, we are consulting and working on lots of drafts and we could see that there is a lot of shoe leather worn from some of our staff's shoes from running around the village.

So we are working very hard -- what we think is very hard -- to do this. We are also looking to see what other jurisdictions

in the area -- we are working to try to understand them so we might be able to incorporate anything major that impinges on us into our regulations.

MS. AZAD: And I apologize for _____ this project plan _____ schedule _____ _____?

THE CHAIR: Well, you see normally there is a project plan. It is not clear to me that normally there is a project like that --

MS. AZAD: _____.

THE CHAIR: We are not building anything here.

MS. AZAD: No, no _____. I mean anything that is _____ you have a project plan, okay, you have this resource that, you know, assigned to that project and therefore there is a deadline that is something _____ since, you know, _____ for another 60 days or so. Is there such a thing _____?

THE CHAIR: Ma'am, we try to keep people informed as to how we are going to -- hoping we will be able to finish by the 30th of April.

MS. AZAD: And it is --

THE CHAIR: But I think it is fair to say also that this is a project that we certainly hope to have had completed by the end of January, otherwise we are going to set that as a goal.

But it has taken longer in part because it is a terribly complex subject as to how to regulate appropriately. So I think we are just coming to conclusion that _____ just do anything to meet the January deadline.

It makes sense to give us another three months but lot of village resources have been invested in this process and it has been discussed at every meeting in part because we have been trying to involve all _____ and, of course, we did put in that 500 and below exemption so that smaller additions to homes could be accommodated during this period without unfairly having to get a, you know, a waiver from the Board, so --

MS. AZAD: And _____ to our _____
 _____ or is that really part of _____ or it that --

THE CHAIR: It is in the moratorium.

MS. AZAD: But --

THE CHAIR: Yes, correct, if it is an addition that you are making to a house --

MR. YEO: There are exemptions for small additions _____
 _____ so you come in and we can do those automatically. You want to build something larger there is still a waiver _____ you can come in _____ but you can ask the Board _____.

MS. AZAD: Thank you.

THE CHAIR: Okay, any more comments or questions?

MS. MALLORY: How many --

THE CHAIR: Please begin --

MS. MALLORY: Penny Mallory, 17 Magnolia Parkway. How many extensions have there been in the moratorium?

THE CHAIR: How many extensions thus far? This would be _____
 _____ questions. All right.

MR. PODOLSKY: _____ this questions of _____

——— now, part of the reason that we are considering this extension is the input we got that, you know, that is what the council ————— we've had outreach to the community, we received input, at our last hearing, last week, which was a special hearing, we received a lot of new input from the community and we are trying to consider that, and thus this extension, really, is to give us time to consider.

THE CHAIR: Also when we do that -- we have scheduled extra meetings so that —————.

Okay, is there a motion then to adopt this? We got a motion, is there a second?

Any further discussion?

All in favor of adopting this exemption to this ordinance to extend the moratorium to April, please raise your hands.

Opposed?

MS. STEPHENS: Abstain.

THE CHAIR: Abstaining. Okay six yes, one abstention. Passes, it is extended.

Okay, we are now clear to take up a discussion, it is ————. Ms. ———, if you could get Nore on the TV there? We are getting our consultant, Nore Winter, from Denver. He is going to talk with us.

MR. WINTER: Yes.

THE CHAIR: Good evening, Nore, how are you?

MR. WINTER: Good evening.

THE CHAIR: Thank you for joining us and good to see you again. I want to give you warning that we are going to ask you if

you have had a chance to -- not quite yet, but I just want to you think about -- if you have had a chance to think about what we heard last week at our meeting and if you have got any thoughts on that in general, we'd be delighted to hear them. But first I am going to turn the mike off here.

(Recess)

THE CHAIR: -- at no time, give us a new data to look at. This is a revised calculations of the FAR for a number of houses. So, Mike, if you could talk into the mike so Nore can hear easily and let us know what we have got from this hearing.

MS. FELDMAN: Could I just take 10 seconds to throw some more floral wreaths Mike's way? This was a fabulous job.

SPEAKER: Yeah.

MS. FELDMAN: And again and no time at all.

MR. WINTER: I can hear you. but I think a couple of other people, I couldn't hear. Were they are trying to say something?

THE CHAIR: We will let you know if we say something important. So far we haven't said anything.

(Laughter)

THE CHAIR: Mike?

MR. YOUNES: Based on the guidance given just after the Board had the special meeting last week, we went back and looked at the targets set about -- we looked at accessory structures, we looked at attached garages, as well as basements that were exposed greater than three feet.

Attached structures and attached garages, we already had that data from the original set. We went to every single — house,

all 100 sample houses.

We physically took pictures of those that had exposed basements, sat with _____ and reviewed each one of those photos based on sizes of bricks, or the number of steps going up to the front door, to make a determination whether it was above three feet or not.

And based on that, created a kind of -- created an overall formula to prorate the basement and the appropriate rate to include them into the FARs and _____.

THE CHAIR: So the first column that we are looking at is the 98 percentile and then the individual findings for the houses as you presented them last week.

MR. YOUNES: Correct, the --

THE CHAIR: And that baseline does not count basements.

MR. YOUNES: Correct.

THE CHAIR: And it does not count detached garages.

MR. YOUNES: Correct.

THE CHAIR: But it does count attached garages?

MR. YOUNES: No, it does not.

THE CHAIR: Does not count garages.

MR. YOUNES: No.

THE CHAIR: Okay, no garage and no basement and that is the FAR. The 90 percent of the top _____, and then all the ones below it.

MR. YOUNES: Correct.

THE CHAIR: And then number one is, if you count the detached, to add the detached structure at 50 percent.

MR. YOUNES: Correct.

THE CHAIR: And that — the 90 percentile of the .46 form.

MR. YOUNES: Yes.

THE CHAIR: Now, is each of these cumulative or they are all individual?

MR. YOUNES: They are all individual:

THE CHAIR: All right, so --

MR. YOUNES: Well some of them --

THE CHAIR: Okay, so let's just march through. So detached garages only obviously is not cumulative. That is 100 percent, a separate thing, and that pumps it up very slightly to .467. That, if you only add the attached garages, is that 100 percent, I assume?

MR. YOUNES: Correct.

THE CHAIR: Then it goes up to .47?

MR. YOUNES: Correct.

THE CHAIR: If you only add basements that goes up to .5 and if you add detached structures -- sorry -- basements have --

MR. YOUNES: If you only counted the attached garages it goes to .5 -- .47 and .5, correct.

THE CHAIR: Basements only though, that is at 100 percent, or --

MR. YOUNES: That is at -- prorated that value at _____.

THE CHAIR: So --

SPEAKER: The only thing that was 50 percent and 100 percent would be detached structures.

MR. YOUNES: Detached structures.

THE CHAIR: Basements -- if three feet is exposed --

THE CHAIR: If three feet is exposed then the whole basement counts.

MR. WINTER: A portion of the basements counts. That three feet that is exposed basically would be calculated at the approximate 33 percent of the floor space that is --

SPEAKER: We can't hear you.

SPEAKER: You need to talk into the mike.

MR. WINTER: All right. If we took at basements at then for that percentage of a nine-foot ceiling and box total, that percentage of the basement comes exposed say three feet that will be one third of the basement was exposed so it got one third of its square footage for the basement footprint, included in the FAR calculation.

THE CHAIR: So if it was four feet it would be 40 percent?

MR. WINTER: Four divided by nine, whatever it would be.

THE CHAIR: I see. Four divided by nine.

MR. WINTER: Yeah.

THE CHAIR: So if we took nine feet as that average out of the basement and we said whatever number of feet are exposed we take that number over nine.

MR. WINTER: Right.

THE CHAIR: And that would give us a rough percentage.

MR. WINTER: Right.

THE CHAIR: Okay, then the next one which is number five which takes it to .504 is that you add 50 percent of the detached

structures and the basement. The next one is 100 percent of detached structures, which is more or less the same. Then if you add 50 percent of the detached structures, the basements and attached garages, then it actually goes down.

MR. WINTER: Yeah.

THE CHAIR: Interesting. Then this is not a random sample. This is 100 houses that were picked.

MR. WINTER: Correct.

THE CHAIR: This is just an indicator, and it just shows the general trend and then if you do the attached garages and basements, attached garages that are 100 percent, this goes to .51. The detached structures at 100 basements, the biggest ones went all the way to 5.529, so unsurprisingly --

SPEAKER: _____ as you said detached garages, but in fact it says detached structures and I wanted to clarify. Does that mean if somebody has a full house for example and you are counting that also at 100 percent?

THE CHAIR: All detached.

SPEAKER: And the same figure that said for the detached structures at 50 percent that also would be a full house or something would also be at 50 percent.

THE CHAIR: Correct.

SPEAKER: Now, with this 100 houses the _____
 _____ who were in the sample --

MR. YOUNES: This is the original 100 _____
 _____.

THE CHAIR: And the reason they could do this so quickly is

because you had all these data, whereas some of the samples -- some of the random samples you didn't have --

MR. YOUNES: I didn't have any of the random samples.

MR. WINTER: If I can make one further point of refutation on the basement calculations, it was always taking into account, if the basement or some portion of the structure receded into a hill, if it diminished below three feet of exposure, we would prorate the preceding percentage allocation to leave only that portion that was exposed.

THE CHAIR: Was that clear?

SPEAKER: I am afraid --

THE CHAIR: I think he means that --

MR. YOUNES: _____ that as given that that thing developed _____

MR. WINTER: Assuming it is _____ inside of the hill, it is not counted, correct?

MR. YOUNES: Correct.

SPEAKER: For the benefit of the audience, it is really obviously not _____ when the house already exists but if somebody is building something and you have plans, then they have the topographical information and it becomes somewhat easier.

THE CHAIR: So what would we conclude from these new data that Michael provided so quickly to us? That when you add more things, the size of the building FAR goes up?

(Laughter)

THE CHAIR: I mean that it confirms that, you know, the FAR goes up as we, obviously, as we add more things.

SPEAKER: Okay.

SPEAKER: Well, I think in terms that _____
FAR depending on how we define it you have to sort of adjust the
regulation accordingly.

THE CHAIR: Another important question I think is what the
county does. We originally aligned ours, the first one, right, with
the county way of doing things, which is no basement, no attached or
detached garages, or --

SPEAKER: Correct.

SPEAKER: Got it but can I --

THE CHAIR: Can you move the mike over?

SPEAKER: Sorry. Yeah, but if you look at the number of
detached structures at 50 percent, which is kind of one -- the
detached structures at 100 percent the number only kicks up a small
amount from .464 to .467 and I am just wondering whether that shows
that detached structures --

THE CHAIR: No it shows -- don't forget, this is not a
random sample. This just happens to be probably that there weren't
very many detached structures on these sites. So therefore changing
it doesn't matter much.

SPEAKER: Right, but --

SPEAKER: There appears to be a relationship we could
identify between the targeted set and the random set. Basically the
random set we could check all these numbers and decrease them by
three percent.

SPEAKER: Even with the additions.

THE CHAIR: By three percent you mean .03 or --

SPEAKER: Point oh-three.

SPEAKER: Okay, but my question was I sat down and looked at all these things and I said, I am not a numbers person but understanding that basic principle of it's going to get bigger, I was first of all surprised that it didn't get more bigger, most biggest, but there are a few that stuck out where there was a big change, or relatively speaking, a big change. And I wonder what did that, you know, in those -- in those cases which I have marked here, if you want to see the ones I've marked.

THE CHAIR: Like what?

SPEAKER: Like number 44.

SPEAKER: I think the basements --

SPEAKER: The number --

SPEAKER: No, no, no I was looking --

THE CHAIR: Are you talking about individual houses?

SPEAKER: I looked at -- yeah, I looked one and I looked at -- you know, column one and column nine. So I figured that is the easiest way that is just sort of from smallest to biggest and I wanted to see where the meat was. And there are a few that have, you know, a few big readings, I mean very few. Most of them have stayed very small. But, you know, like number 81, you get a big reading. Number 44 you get a big reading.

SPEAKER: That means what --

SPEAKER: And then 27.

THE CHAIR: I agree with you but this does not change -- if you go to the percentage -- if you look at the percentage of houses as you incorporate more of the tax structure --

SPEAKER: Yeah.

THE CHAIR: -- the percentage of the houses that really exceed, you know, the threshold are just not that great. It's 100 percent, _____, you know, 10 to 12 percent. So I agree with you that it _____ skewing 90 percent of the houses in the Village by counting the substance of that _____, are the main building and the detached buildings.

SPEAKER: Yeah.

SPEAKER: I think _____.

THE CHAIR: I am sorry. Say that again for the benefit of us who didn't understand _____.

SPEAKER: That is --

THE CHAIR: No, no go ahead.

SPEAKER: Me?

SPEAKER: Yeah.

THE CHAIR: What is your point? I don't mean that pejoratively.

SPEAKER: My point is that if you look at the percentage, the impact, there is at least 10 or 12 percent of the existing houses, if you add the detached buildings, it really doesn't, only a small percentage, relative to 100 houses, are really impacted in _____ way.

SPEAKER: Yeah.

SPEAKER: By the addition of those detached --

SPEAKER: The ones that failed before almost all still fail and the ones that passed before almost all still pass.

SPEAKER: Yeah, but there is a high --

THE CHAIR: You are talking about the 90 percentiles?

SPEAKER: Yes.

THE CHAIR: So if the house is already in the 90 -- above the 90 percentiles or it is just staying there then --

SPEAKER: It is not like some houses are suddenly kicked down to the bottom and other houses --

SPEAKER: Yeah.

SPEAKER: _____ at 90 percentile.

SPEAKER: That is it.

SPEAKER: But there is no material, there is no gross difference _____.

SPEAKER: I thought there was going to be a, you know, a big change.

SPEAKER: I agree with you. You would have thought there would have been.

SPEAKER: Yeah. Basements seem _____.

SPEAKER: Well, I think basement is a _____ the addition of which _____.

THE CHAIR: Nore, have you had a chance to look at these numbers?

MR. WINTER: Yes.

THE CHAIR: Do you have any thoughts?

MR. WINTER: Well, I think, _____ a good observation. I think the bigger the _____ the visual survey involved and the _____ involved and looking at the two and making some informed judgment about how to go with things.

One natural level of consideration of _____

_____ of the earlier method of calculation with the comparable FAR at the _____ showing _____. Well, that was very inconvenient. It is interesting to think of including the _____ into the FAR appreciably.

And I think it helps you to determine thinking about should you _____ or not, to remind you the provincial idea of not counting the tax structures was a necessity because in some communities _____ it separated the overall coverage _____ and to support the _____.

But there also was a very good comment last time, that a large garage behind next to me could have as much impact, if not more, than the main house.

You know, I think that is one of the key questions for you, is about detached structures and should they be included.

The second one about basements, I think also is interesting and I think should you choose to include basements in the FAR, we would want to refine the actual calculation method but this is a good _____ of about what would happen if you were to include a prorated portion of the rating.

But I think it is sufficient, I would think, for you to make a policy-level decision of do you want these elements in or not. And I guess that's the first kind of discussion that you should have from a policy standpoint.

THE CHAIR: Well, and I think it is an interesting question to discuss for a minute or two what people see as the added benefit of having attached garages and detached structures and basements, either in or out, with what benefit do we see here that could make it

worth the additional small but real hassle of having to make it more complex and a little more demanding to, you know, include that in the regulation.

MR. WINSTEAD: You know, I'll take a shot at that. You know, to get back to, based on the various comments, which I think were, you know, were on par in terms of our direction, what we are trying to do, I think that the FAR on a lot in the Village, by considering the detached lot and the basement last time we talked about not counting those except for those that are three feet visible or average and I agree with that.

But in terms of the impact on the Village, I think what this chart shows is that if you do include the detached structures as a part of the FAR count it really does not store except in that top 13 percent, the houses that would normally satisfy that.

And so I think it is consistent with including them. I mean, I think that when we heard last time and what we are seeing in the state is that to include detached structures gives you an overall perception and reality about what coverage and how much space is on a particular residential unit. You know, I think it accomplishes our objective by including detached structures as well as the FAR in the main.

SPEAKER: One hundred percent, or 50 percent?

MR. WINSTEAD: Well, it is very little difference really, if you look at it in terms of the impact of the 100 homes, between the 50 and 100. If you look down the five and six column it varies very, very little.

SPEAKER: So my -- okay.

MR. WINSTEAD: Yeah. I went through it 100 percent just to, you know, make a --

MR. YEO: I think this is value in being transparent in exactly what we are measuring. And I think that for it, you know, for you to address the basement issue, while it normally is not going to be an issue because most people do not have, you know, houses on these sloping topography.

I think we do have to be in a position to explain to neighbors facing those types of homes that are in a sloping topography, yes we count that section that you are facing as a result of this construction and this is why we are doing it, because you're facing this wall of windows and it looks like a three storey house and that is very common.

And I think again for detached structures is to be able to say, listen somebody might have an office in that detached structure or it could be a garage but, you know, you are facing it, you are looking at it. It is just better to set the FAR, you know, if we decide to go that route, with the number that works including basements and detached structures. I think it is fair.

MR. WINSTEAD: But by increasing the FAR, whatever number it is, will allow for that and you then of course give them a chance of building a much more massive house and no outbuilding.

MS. FELDMAN: But we didn't say increasing the FAR.

SPEAKER: Yeah.

MS. FELDMAN: We said keep it about where it is.

MR. WINSTEAD: No, when you include the detached structures

--

SPEAKER: You have to increase --

MR. WINSTEAD: You have to, you know, my own view is whatever we decide has to be said on what our best understanding is of, for instance, 90 percent of the homes in the Village currently could meet that standard. So I, you know, I think that we meant the flip side.

THE CHAIR: The flip side is that then people can game almost any system that we can come up with, how you imagine, if they want to, and we just have to decide what it is that we are willing to let them game.

SPEAKER: So you are arguing that if we count detached structures we should perhaps count them as less to encourage people to --

SPEAKER: Well you can always take the FAR up.

THE CHAIR: No, I am just saying I don't know what the answer is. But it concerns me either way, as you said. If you cut the -- if you incent, to use a verb people don't like, people to build out buildings by counting them less you would run the risk that they will game the system by building six-car garages or something. You know, they're not going to build a place that supports a six-car garage but the potential is there, obviously.

Or -- and I will speak from personal experience -- we have some gi-normous garages on our back fence, which we really don't like a lot at all. So I don't know what the answer to this is.

SPEAKER: Well, the point that I was making was that if you say, oh, okay, the FAR is coming to include all of these outbuilding and basements and so on and therefore we are going to raise the

standard to, you know, .50, then somebody could put all that .50 into their house. But I mean can you separate it and --

SPEAKER: What about if we said the basic FAR is .448, and you have a basement then goes to .5 and if you have basement and detached structures then it goes to .529 --

SPEAKER: You know, I am --

SPEAKER: -- and if you have no basement but you have detached structures it goes to .448 plus whatever --

SPEAKER: Yeah, okay.

SPEAKER: Good. I mean I don't think that is overly -- like I have a naïve question, I think this is really a question of for Jeff, or maybe for David, which is if somebody were to build a house with an attached garage, is there anything in the existing regulation that would stop them from basically turning that into an extra room in their house? I mean an attached garage, an integral garage.

SPEAKER: From a Village standpoint it is certainly doable. There are county requirements for _____ from rooms, required windows, for the outside. From a real estate appraisal standpoint there is a disincentive to do that, simply because you need to have closets and one other characteristic, you have a window of some sort or another, to be classified as a bedroom. So you can't get those --

SPEAKER: _____ that might be a bedroom.

SPEAKER: Correct, but basically a reconfigure, it can be done. Whether or not somebody would be --

THE CHAIR: What about detached structures? If somebody were to go with detached garage, you know, 24 by 20, which is a

pretty good size for a garage, is there anything that precludes them from putting in a bathroom, and turning that into maybe a small kitchenette, and turning that into a guesthouse? Is there anything in the existing regulations?

SPEAKER: Counsel might be better suited to answer this one, simply because once plumbing and habitation conditions occur it is potentially a separate addressable residence and our code doesn't allow that.

SPEAKER: We have a prohibition in our code.

MR. PODOLSKY: Yes. Two dwelling units on the same property. In candor, there's some question about how enforceable that is, given the Court of Appeals decision in the Rothman case, but that is on the books.

MS. FELDMAN: What is the Rothman case?

MR. PODOLSKY: That is the one that said we don't have land use authority back in 1991. It was actually in Chevy Chase View. The court said that under the regional district act, zoning was a county function, a village function, or a municipal function. They have electrical, plumbing, HVAC codes but you couldn't have land use codes.

In 1992 we got the setback authority back and that has now been expanded to the bulk and lot coverage and design standards. There is an argument to be made that what goes on inside a building, however, is not structural in terms of light and air and bulk and size and setbacks but rather of use. And whether you use it as a commercial unit or as a residential unit or as a garage, arguably is something that is preempted by the county.

We haven't conceded that to anybody but there is at least an argument there that what goes on inside --

THE CHAIR: We have a rule against it.

MR. PODOLSKY: But we do have a rule on the books against it, and there are covenants on those properties, against having more than one dwelling unit on the property and so any neighborhood can enforce the covenants.

SPEAKER: Doesn't the Village covenant also state that it has to pay the county that is not related or something? There is something -- there is something --

MR. PODOLSKY: Village covenants say that that house has to be used for a single family, so with regard to group homes or dormitories or things like that. And single family has been defined as not more than one, well, not more than one unrelated person per house, say, so you could have a family plus one unrelated person.

That is another one of those issues --

SPEAKER: But you could have a situation where it was not -- for instance, they didn't have a kitchen and that in that separate dwelling but it was an expanded office and billed as such.

MR. PODOLSKY: If it was designed as such, you don't have anything that prevents somebody from having a home office there. If they have a commercial office then it would be a commercial use and that would be a violation. But if you are an architect, if you have your office in an outbuilding, you could do that.

SPEAKER: There are many pool houses in the Village that have plumbing for ——— and nets, so ———.

MS. EIG: And I think the perhaps might be more appropriate

to consider something on the order, rather than just worrying about detached garages versus inside garages that you either count them both or don't count them both so as since there is a disagreement as to whether there is advantage to one or the other, so we don't play judge as to which one is better. But that on the other hand that we might want to consider penalizing additional buildings if somebody has an additional structure on the property.

THE CHAIR: You mean a third structure.

MS. EIG: Yes.

THE CHAIR: So if you count a third structure it doubles.

MS. EIG: So I don't know. I am just saying that it is something that I think we should consider because that is an additional impact if something else goes on there.

I mean, I guess that one of the reasons I am thinking about that is because when I looked at the issues of pervious versus impervious searches it seems so complex as to make it just impractical to implement, so therefore we could simply target some of the things that are specifically problematic, instead of things which would involve just horrendous mathematics, like garden paths or irregular shapes _____.

SPEAKER: Are you talking about lot coverage regulations --

MS. EIG: Yeah.

SPEAKER: -- that include various requirements for whether its pervious --

MS. EIG: Right.

SPEAKER: Whether it is --

MS. EIG: Yeah, I think those are going to be really

impossible. But I -- but I will stand with -- I think with David that that I don't think we need to increase the FAR. I don't understand why we have to have this imaginary goal of making 90 percent of the houses compliant, when the whole point of this is that we recognize that there are houses here that are perhaps too large, whether or not people think they look too large, and that if we do have a variance in procedure and to have people come in to discuss things is okay, and that if they have a good case they will get an approval.

SPEAKER: Can I ask Nore a question? In other towns and municipalities provided the council to, how many have adopted FAR for residential dwellings that were less than -- that the average was less than 90 percent? That this chart is based on 90 percentile, what's been your experience and other recommendations you've made in terms of whether it averaged at 90, or 80, or 70 in terms of compliance?

MR. WINTER: Most of the communities don't do the statistics. They do it based on visual analysis and of survey people identifying what they think is compatible and working to numbers from that is opposed to basing it on a statistical percentage.

SPEAKER: So they walk around, Nore, and they say if these five houses are the bad actors, what is their FAR? Is that --

MR. WINTER: Well the public workshops and the ——— surveys, those are the ones we do use. That information is used to identify what people consider to be a ——— structure. And on that we build the model ———. The statistical analysis where we've done it ——— what would be the impact as

opposed to saying, look it is calibrated to that percentage. So I think that was part of the initial discussion _____ as well to —
_____.

MS. EIG: One of the things I've suggested, Nore, is I think it is for us -- we have the addresses of all of these houses, and that hasn't yet been made available generally to the Village residents. I think for many of us what we see on a diagram, and what we see on the street, is quite different.

And so I think we agreed, have we not, to publish the addresses of the houses that -- put it on the web and have it available to people if they want to pick it up and so that the residents will have an opportunity to go around and actually look at these houses and see how they do react when they see them on the street.

MR. WINTER: I think that would be a good exercise. Keep in mind that on the street there are many other fine variables that are affecting the perception of _____ five models have _____
_____. There are variations on wall setbacks and bay windows and changes in materials, for example. Or landscaping. _____
— building. So as you do look, be certain to look with a cautious eye, I guess.

SPEAKER: I think --

MR. WINTER: When you look at the basic _____
_____.

SPEAKER: I think that is precisely the point that that is
_____.

SPEAKER: Yes, because in fact, in the abstract, which the

————— it's one thing and we think that it shouldn't be larger than that but when we actually see it, you know, in the built environment --

SPEAKER: The perception that we have -- one of the perceptions you have is from the streets, but perhaps an even more important perception is what the immediate neighbors on both sides and the back think which a walk-by would give you no information about.

SPEAKER: Right, but I did actually go around and look at that but this was several iterations ago and looked at the buildings that were in excess of the whatever formula we were using or talking about and I think that I looked at nine houses of of those, to my eye, three were really quite unacceptable. And the others looked fine and yet there are houses that have a perception of massiveness, for example when we talked last week or last meeting about the addition that is being done on East Melrose, that the neighbors are very strongly opposed to but yet it would fit into the FAR.

But the thing is concerning me quite a lot is that we do perceive a problem with mansionization or the potential of mansionization and actually I am not absolutely sure that the FAR regulations are going to do what we hope they will do.

SPEAKER: You are referring to some information that we don't have and that we don't have access to, that I know of, to information that indicates what the FAR of the proposed addition on East Melrose --

SPEAKER: It was mentioned last week --

SPEAKER: But what is it? We haven't actually received

that documentation but you're referring to that very specifically, so I would like to know what it is.

SPEAKER: I think it was --

SPEAKER: Could you please describe it?

SPEAKER: You described it, didn't you, Len?

SPEAKER: You are addressing me?

SPEAKER: Yeah.

SPEAKER: I mentioned last week, I said that we have an unofficial estimate of a .45 FAR at that address. I can't --

SPEAKER: Right.

SPEAKER: -- tell you for 100 percent that that is what the FAR of the proposal is but that is our estimate.

SPEAKER: Yeah, I am not pointing to that. I don't mean to point at that specifically, but just as an example that we have these problems of neighbors and residents in the village, but I am not sure that a FAR, unless we set it extremely low, is going to satisfy our concerns, and we -- and no matter where we set it there are going to be a lot of people who are going to not be able to do anything to their houses. I mean, that is another issue. And when they sell their houses they are going to be probably some --

SPEAKER: Well, we do have a variance procedure. And I have a question for Janet. This isn't asking for another detailed statistical analysis but about what percentage of permits that come before you for approval do you grant as a matter of course? How many -- I don't know what percentage of permits do you think per variance. I am talking about for additions and, you know, for major --

SPEAKER: Ninety five to 97 percent of _____.
The vast majority are administrative approvals.

SPEAKER: So what we -- if we settle FAR, let us set aside the idea that we are not doing enough for a minute unless we deal with the idea that we are doing too much. Okay? There are two sets of _____ on this. What we are saying is that ten percent of the people who live in the Village would have to apply for a variance to do anything with their house. You may even say that the people who fall into the 5 percent below that or even the 10 percent below that might have to apply because that would take them above the FAR. So does it does increase the number of requests per variance that there is receiving them. It doesn't mean that everything is a variance. For instance my house is at .22 or .3, depending on which of these you looked at, and I could, you know, I could double the size of the house without having _____.

SPEAKER: Let me just -- just one comment with this framework _____ for consideration _____ on January 9th and just a small comparison of I guess section C _____ ratio of FAR for new residences or renovation in the town of Chevy Chase, and they said the FAR for one should not exceed .3 and we are at .44. They are saying, make it .30 and then they say to give an exception at the bottom of only allowing for an addition to a main building of .05 so theoretically that can take it to .35 but that is what they are considering.

SPEAKER: Yes --

SPEAKER: They are considering --

SPEAKER: _____.

SPEAKER: Well, I know they have a bunch of exceptions —
_____.

SPEAKER: Their exceptions you can get a cut of .5

SPEAKER: Point 5.

SPEAKER: Yeah.

SPEAKER: Yeah.

SPEAKER: So the point --

SPEAKER: So that's the starting point.

SPEAKER: Yeah.

SPEAKER: Yeah.

SPEAKER: Okay but --

SPEAKER: They are not expecting anybody to actually have
to --

SPEAKER: Did you add -- did you add all that up to
determine what the --

SPEAKER: The debate is --

SPEAKER: Says somewhere here that it didn't --

SPEAKER: Point 5.

SPEAKER: You could get up to .15 extra in FAR you would be
_____.

SPEAKER: Six or seven feet.

SPEAKER: Did you actually do a physical --

SPEAKER: Yeah.

SPEAKER: _____.

SPEAKER: My first reading of that was one of our
objectives, so to speak at the beginning of this project, was that

whatever we did we should really keep it simple and understandable and enforceable and --

THE CHAIR: Nore, did you get a copy of this Town of Chevy Chase regulations?

MR. WINTER: Actually _____

THE CHAIR: It is -- and for the people who haven't seen it, is it available publicly?

SPEAKER: Presumably it is available publicly. It is going to be available -- it is available in Town of Chevy Chase website we can make a link on our website and it --

SPEAKER: It is enormously complex. I mean, they really worked it over and it is not done yet and they are working for a solid year with committees and so they have come up with a multi-page regulation that is very detailed.

SPEAKER: My flight was delayed by three hours so I think the study is very confusing.

SPEAKER: I just think in response to your comment that the variances are available _____ somebody is going to apply for variances. But I don't think we want to start out justifying whatever we do on the basis that, well, you can always apply for a variance. Because I don't think we want to start out with the expectations that 15 or 20 percent of the people who want to add on to their houses are going to have to ask for variances. I would think that legally that would be problematic and we certainly wouldn't be happy with the situation.

SPEAKER: It is legally problematic, David?

MR. PODOLSKY: Any regulation you adopt is going to restrict somebody's right to do something they want and unless you deprive them of all reasonable use of their property it's not going to be invalidated.

SPEAKER: But in any case --

MR. PODOLSKY: _____ procedures because there are the odd situations where you have an exceptionally narrow or shallow lot or a steep slope where the normal regulations just don't make sense. Whether people _____ to come to a variance are a small percentage. I don't know if that's a big issue. _____
-- _____ variance _____.

SPEAKER: _____.

MR. PODOLSKY: Whether that makes it illegal I don't know.

SPEAKER: You can't possibly come up with a regulation it is more restrictive than the regulations we have right now, without having more people requesting a variance.

SPEAKER: Yeah I find that _____, my point being that, you know, 10 percent of the people might be unable to touch their houses without a variance but I mean that sounds _____ well maybe that is an okay number, but I don't think you'd want to it to be any --

SPEAKER: Listen, that is what I agreed with. I knew that _____ a lot of residences or _____ in town that have adopted the FAR but _____. I actually think it is _____ a work load perspective and also from a, you know, number of residences that might be affected perspective, now that we have the information I think it is useful _____. That we

don't _____ 10 percent of houses. Because from a work load perspective, you know, we would be considering variances left and right, you know _____. I think we need to be careful about how many houses we catch. But on the flip side, I agree with Bob. We are going to catch some houses. It's going to be an arbitrary number as to how many we catch. _____ as people cannot increase the footprints of their houses in a significant way.

SPEAKER: Or the volume.

SPEAKER: Or the volume. But the point is that it's not like you can't do renovations to your house.

SPEAKER: You cannot turn _____.

MR. WINTER: First of all, a couple of generations ago, I did do some _____ -- how many square feet would you have left and where if you look at this updated sample rather quickly, the vast majority are still -- if you look at the data, if you look at the _____ that they are, or if it's up into the 80th percentile, you have a lot of _____ that you could still add on and attract a very lot of influence. So _____, I think it's very important that people understand how much global _____ is left on the table for _____. Out there it's only 10 percent that you get to the 80th percentile, that you're going to have around 250 to 500 square feet of building options. Depending on your viewpoint, that's not much, but you can still add comfortably a _____ in that kind of _____. That top 90 percentile is the one that it will be problematic. We've looked at those _____ by _____ around in all those years, and I would say that about six of those I believe, just the information you now have about what the

community considers to be compatible, you probably would give them some form of variance, but now you would have a lot more of the rationality, you would have a firmer basis for doing so.

Those that we looked at were on unusual types where they had -- they had the _____ but you didn't really proceed, _____ a black log or a wedge-shaped block that the neighbors were really giving a broad sign if you will. Under other circumstances, but now I think with some of the information you have and the analysis you have, you would be able to look at those buildings and say that one is compatible. It actually does fit within the Village even though the numbers may not. There are four that shouldn't have been built, given what people said about matching scale, and you're going to look at those, I would think, and say sorry, you are beyond the FAR.

SPEAKER: But the problem --

MR. WINTER: I think the way that _____ probably are workable. I think some of _____ that's base FAR for the primary structure, and if there is additional amount of FAR, that you can _____ reported that _____ and you can -- you can tweak that number.

And I think the advantage of that, as someone noted here, is that it does not open the door for everyone to put all of their .5 FAR if you would, in a single box that it's all above ground and has no detached structures, but you ought to be not doing that situation.

Well, I don't think, I mean, if you're still in the range of a basement FAR being around .45, there's still the opportunity, reasonable opportunity, to both property owners, and you would be in

the range that people visually have said was compatible.

SPEAKER: Point 45 under the original calculations, not including base, not including banks -- I guess the one issue with variances that bothers me is that it then becomes subjective.

You know, when we have rules and we have, you know, a way to get, to just sort of dispute those rules, then the Board becomes -- our criteria are then subjective. They're no longer clear objectives.

MR. WINTER: And I think we've outlined for you a very simple design guidelines. We don't require to _____ for all situations for variances. There can be a simple four-page set of guidelines that talk about some of the other design variables that you don't want to regulate, but for those variances, that would be fair game. You could talk about changes in wall planes and setbacks and _____ and materials.

SPEAKER: Well, so, David, for instance we've evolved over the years certain language that we use in our current variance discussions, things that we think to be mitigating factors, whether it's because, you know, it's an unusual lot, and has three exposures, or whatever it is, one can imagine with Nore's help and through time that we could evolved similar kinds of general if not standard kinds of issues that get discussed when someone comes in for a variance above or beyond a certain FAR or whatever the regulations are.

SPEAKER: And certainly supplement the current standards. You could have different standards that are applicable, within FAR variances. You know, for example, in the setback variance, you know, the name on _____ approach close to your neighbor, but in a

FAR variance, you might say if you have a mixture of one and two storey structures which, to minimize the impact of any one large portion, we'd be able to get extra FAR. Because the apparent capacity, apparent FAR is smaller than the actual _____.

SPEAKER: But I think then what we're doing is moving towards what the town proposes, which is, as you said, you could get bonus points for, you know --

SPEAKER: Well, you could do that. Usually it's part of the regulations where you can say these are possible considerations for an appeal and they're able to appeal it.

SPEAKER: Right.

SPEAKER: As opposed to making an administrative decision.

SPEAKER: It's the responsibility of the applicant to demonstrate their mitigating circumstances. Those mitigating circumstances could include _____, and without quantifying them or -- and you're right. I think it is somewhat subjective, I don't think we can get around that. I mean, the only way you can get around having it be somewhat subjective is you could accomplish an incredibly complex regulation or adopt nothing.

SPEAKER: And I think adopting nothing, and I'm opposing that, but the if we're adopting nothing, from my perspective it's not a positive outcome. You know, we've seen _____ to start the _____ -- you know, wherever _____ or whatever design document he's got, I _____ believe we've got to do something and it is, you know, what that number is _____ or not, you know.

MS. EIG: There are two points I'd like to make. One is that I don't think it's really -- I don't think it has to be

subjective. I think that there are ways of looking at these points in an objective way. I think that there's probably -- looking at it subjectively because the problem is within ourselves, not with the legislation.

I think that the other aspect is that I think what you're ignoring in your concern for the homeowner is the concern of the neighbors.

And that, in fact one of the biggest problems has been the lack of a clear forum for those neighbors to speak when they have a concern and that if we set it too high, those neighbors will still not have an opportunity to speak. And so we want to set it so that in fact they do have that opportunity, and yet we don't have to bear to the problem of setting up another system through which those neighbors would have that opportunity, which is a whole 'nother complexity.

SPEAKER: So your point is that when there is appeal, the neighbors by definition are invited?

MS. EIG: Right. I guess one of the things is because I think that the LNP is -- and that only concerns one-third of the houses here in the Village, maybe more than a third -- is basically an invisible entity and many people who've got in the process, don't even know that it exists. And their comments are private and yet those people are reflecting or are supposed to reflect the view of the Village and it's not part of the public record.

So I'd like to have these discussions in a forum where it is part of the public record and where anybody who has concern with what's being said has the opportunity to say something on public

time.

SPEAKER: So on that note, let's hear if we haven't reviewed, I know that you've been fascinated by our incredibly intelligent discussion of the _____.

(Laughter)

THE CHAIR: Those of you who're still awake, you know, their comments from residents about, you know, what we've been talking about tonight, which is the FAR in light of new data, in light of what the town has done and so forth. Yes?

MS. ELLIOTT: Judy Elliott, 17 West Irving Street. It's not _____.

SPEAKER: Could you talk in that mike, so that Nore can hear you, please. It's not a microphone, it's a amplifier, just so that you can hold it about 12 inches from your face.

MS. ELLIOTT: I was just going to say that that people I know in the town -- I'm just dumbfounded by what's going on there. I find it way too restrictive, so -- and that's _____ well, little piece of it, but it did concern me.

THE CHAIR: It is a very complex piece of legislation as it's proposed now -- regulation. Other comments? Yes.

SPEAKER: I'm Alan Berlow, at 9 East Melrose Street, and actually, believe it or not, I don't think these deliberations are going to have much impact on my personal situation, but I guess I take exception to what Mr. Jones said about the choice being extremely complex or zero. I think there is another alternative which is a lower FAR. And the mandate here is to stop mansionization. It's not to avoid work for the Board of Managers.

If it means that you have an additional number of variances to look at, I don't see that as a problem, but I'm not sitting on the Board.

If you have a lower FAR, my sense is that from the numbers that were cited earlier, the variance procedure here is not like jumping through Olympic hoops. It's a fairly fair-minded and simple procedure. People apply for variances, and they get them in the overwhelming number of cases.

So lower the FAR and have more variance applications, or alternatively provide an appeal process, more neighbors at the other end.

If you want to set it at .45, allow neighbors to come in and say, "Look, this doesn't work right." Nore walked around, looked at 10 houses and he says four don't look like they would stack up. That's an aesthetic judgment and all of this is based on aesthetic judgments and the problem cases are all aesthetic judgments. They're cases in which individuals are saying, this house is going to destroy my life, this house is going to have a great impact on my backyard, on my swimming pool, on this, that or the other thing. And the number of problem cases, I think is relatively small.

The variances will be approved routinely. Just have a lower FAR and allow some public discussion of what these proposals are.

SPEAKER: All right, thanks _____. I had a different question than _____ had. It's just, you know, was here but -- in your judgment, given your _____ compliance for the village, did -- how many communities have included attached and detached garages in the FAR, _____ that you helped them put

together?

SPEAKER: Well, they've all included _____ construction. They've not _____ attached _____ to have done that. _____ I'm not sure whether _____, but all five above the ground _____ structure to _____ - in the FAR.

SPEAKER: All right, thank you.

SPEAKER: The _____ structure _____ included it under the _____, the other half have _____ happened, have been accounted and _____ or not counted the first five _____ have been _____ encouraging that thing to do. That gives a _____ which could be voted and both of the _____ are used.

SPEAKER: Thanks.

SPEAKER: There are a few _____ that you alluded to earlier which is that there's a _____ structure FAR and then an additional FAR for secondary spaces.

SPEAKER: Thank you.

SPEAKER: So, let's continue discussion of some of the _____ . Yes, sir?

MR. BOYLE: I'm Alex Boyle with --

SPEAKER: No, not so close.

MR. BOYLE: Oh, sorry -- 49 West Lenox Street, and since the meeting a week ago, first learned about this .45 of the _____ and in a state of shock.

Our house currently is .55 FAR, without the basement. With the basement it's .80 and I was _____ to look at the houses on

the end of West Lenox Street, because all of those houses faced the same situation. From the street, you see the house, you cannot see the ground sloping away towards the ground floors. So I believe all of the garages or basements on the house _____ in the FAR, in accordance with this definition.

And yet those things don't -- they are not visible to _____ other people _____ and they do nothing to enlarge the mass or scale of the house. You don't see it because of the topography of the ground.

So I would encourage the board to consider some way of _____ excluding basements or excluding basements and _____, but in our case the basement would be included in _____ this definition, and would take the FAR _____ feet.

MR. BREWER: Good evening, Robbie Brewer. I live on Grafton Street. It's first down from the _____. What I'd like to clarify from last week that I made, the -- this relates to one of your discussions about where you draw the line on FAR.

I think some of the board members have set relative quality _____ at 90 percent. That's really high and that only leaves 10 percent nonperforming, but do you think those 75 homeowners in our village know that you're about to make them nonconforming and to what degree are you going to make them nonconforming? If you have five, or six, or seven houses that you find odious and unacceptable for our neighborhood, well, five from 75 leaves 70.

Now, do you really want to tell those 70 homeowners that, well, there's some magic with the 90th percentile and you're above that. Your house looks fine, but the FAR is too high, and no, we

don't really dislike your house, your house looks fine, but guess what, you're stuck. Seventy houses in the village are stuck because five we don't like and we don't want more to happen so that five grows.

So I urge you to be careful about picking that number and I'll just let the people be not conforming, because the variance process I think is subjective. And unless, I think, you adopt broader standards that give you more discretion and account for the issues that are unique to FAR, I think you're asking for trouble as a Board member, to ask for those 70 people and others, just below the 90 percentile, to come in here and constantly seek grades.

I think you need some clarity. Our basement's _____ — incorrect. I made the comment last week that you have what I think is sort of an odd definition of basement. I noted the town's report, I read it, keeps the county definition. They've distinguished between basement and cellar. Why would we do something different than the county, different than what the _____ is beyond data.

I think you really need that standard definition which would mean that a number of things that we've considered today, not FAR, that are _____ would not all of a sudden become FAR and I think it needs clarity on whether a garage is an outbuilding. I mean, how many times do we walk around our neighborhood and find all these big garages in the older part of the village unacceptable? I don't think we do that, so why would we call them FAR?

I think you ought to exclude them. I think you ought to exclude things that are truly cellars.

Last week, I got here a little bit late and I don't know whether you talked about a lot in _____, my point about the 90th percentile makes 75 houses noncompliant. If you picked a 50th percentile for a lack impervious _____, you could top 375 homeowners in our village, that they have too much impervious surface and they can't do anything about it.

Do you really want to tell 375 homeowners that they don't comply? Is that problem that bad? I noticed the town didn't propose that the town keeps the building coverage standard for the county pass.

So I'll be quiet now, but I just -- I know a little bit about this subject professionally. I'm just really concerned this village resident that not only is their general absence of knowledge of all these folks about the implication of their house and I understand the time you can go to take care, survey and they'll do all your measurements and they'll tell you whether you're compliant.

I'm worried that you have hundreds of our homeowners who don't have any clue of what you're considering. You're going to adopt a standard in good faith and you're going to have all these issues and problems for which your variance process is entirely inadequate. All this if we don't like five houses and they, we know might notify that people are planning. But we're 750 houses in the Village. I think we need to be reasonable.

SPEAKER: Thank you.

MS. EIG: Can I ask David to -- Mr. David, I have to admit the definitions of basement and cellar that the town quoted in here, I found absolutely impenetrable.

MR. PODOLSKY: I find them to be _____ too. But having said that there are our _____ and engineers and building comment reviewers who will administrate them on a daily basis -- I think we are -- we are just, you know --

SPEAKER: So a cellar is something that's not above ground, is that the easiest way to say it?

SPEAKER: Right

SPEAKER: No, more than --

MS. EIG: I think half of it.

MR. PODOLSKY: -- probably within the town, and the working definition in the town is more than half of it is below grade as the cellar.

SPEAKER: Correct.

SPEAKER: And it's a --

SPEAKER: It's a basement. And cellars are not --

MS. EIG: The typical reason the basement is in the Village.

SPEAKER: Try reading the actual wording in here.

SPEAKER: It's the principle in general that if something is completely below grade, it doesn't count, it's not unreasonable.

SPEAKER: Right.

SPEAKER: Pretty understandable.

SPEAKER: Yeah, that's the -- it's required -- and part has been agreed and a part isn't, do you treat the whole, if 60 percent is above grade, and 40 percent is below grade, you count it as 0 you count it as 60 percent. And --

SPEAKER: And what is the expense?

SPEAKER: Pardon me?

SPEAKER: And what is the expense?

MS. EIG: Well --

SPEAKER: In terms that we are not working with this -----
----- we do have two barriers --

SPEAKER: -----.

SPEAKER: -- there are two barriers, ----- height
that has to be at least 6 foot 6, or 6 foot 8, and the volume that is
to be defined as either basement or cellar. And at what point
outside, does grade cover 10, to 20 percent, 50 percent, 75 percent
of that basement cellar overall -- you have to have volume first to
have the argument, if it was cost base it doesn't apply, it's a
no-brainer.

You can have a cost base that elevates the house structure
4 feet, and have either a basement or a cellar. But once the volume
is established and it is clear height, then it's to watch that
whether the grade falls and how much that volume is underground and
how much of it is above ground.

MS. EIG: That portion of the building below the first
floor joists of which at least one of its clear cellar ceiling height
is below the average elevation of the finished grade along perimeter
below.

SPEAKER: Okay. I don't think much purpose is served at
the meeting --

MS. EIG: That's cellar.

SPEAKER: So I think we get the point, and it is something
we have to talk about, but I don't think we need it right now it's

going to help. Other comments -- yes.

MS. POWERS: I am Alison Powers of 3929 Oliver Street. I just wanted to say, I am really concerned about the 10 percent of the residents who are in compliance. We have people who have _____ doesn't know that there's been a change to the building _____ and they are probably not planning on having a _____ unless you are concerned about the _____ the last week, and said that even as _____ in the village that we will be disappointed.

I think that there are concerned about it _____ coming for a _____ judgment experience with this and _____ which I am --

MR. YEO: Well, I think there is no question that if you _____ and you tear it down, you can build a pretty darn big house _____ and that's what we are doing already. And I don't know if anything that we are going to do if put it at .43 or .44 or something like that, it won't make much difference.

It's going to certainly affect some number of very, very big _____, specially those on relatively small lots, but if you buy a house that's on a reasonably sized lot, you have the resources to completely _____ tear it down, you can build a pretty darn big house.

I mean look at the number of houses here that are _____ Those houses could all be purchased, leveled and _____, right?

SPEAKER: So, but again -- one would think that _____ exercise from beginning is then to deal with the, you know, the

most extreme samples, and I don't think you know, with this ————
——— for thinking the right number that really goes after one of
the extreme examples.

And knowing full well that they are going to be increased
level here ———— and allowed to make those judgments about all
the other is a high number of --

MR. KAMEROW: And if what we have made will not be perfect,
there may be lots of ———— like everybody built that are
going to be perceived to be --

SPEAKER: Right.

MR. KAMEROW: And that's the way our -- we will not --

SPEAKER: Right.

MR. KAMEROW: And there is no magic number.

SPEAKER: No.

MR. KAMEROW: And so the question is what's the number we
are thinking about and second question, is there or are there
additional requirements, as someone said, if they build a house
that's .43 and it's a square that's going to need more offensive ————
——— that's going to be more offensive than one that has
some number of set backs or sure wall length or something like that.

So the question is, for those that likely escape the .43 or
whatever it is level, do we also want to consider any observing
additional recommendations. And then there's also the lot coverage
issues which can be either connected to or disconnected from
questions ———— ability, if I am not am I correct in saying
that the county talks about lot coverage, 35 percent and it talks
only about structures --

SPEAKER: It talks about buildings.

MR. KAMEROW: That's right, so you can -- _____ as far as the county is concerned that's a different issue that some people raise which is the question of how you regulate _____ from the ability.

SPEAKER: Right.

MS. EIG: Any issues of excavation?

SPEAKER: Excavation --

MS. EIG: Excavation, just in relationship to the actual construction of the house to prevent the kind of damage that _____.

SPEAKER: Well, but they all have to have a plan, and follow the _____.

MS. EIG: But they don't have to try out to what point beyond that footprint they are going to build, they are going to dig. There is no control of that. That's what happened _____.

And so in other words management, for example, want to treat reservation plans as presented, you know, the idea is that this is a footprint and that's then saving that X number of feet into the neighbors tree, or to their tree but in fact that doesn't tell you where they are going to -- to which point they are excavate and how many feet it is from that point to the tree.

SPEAKER: Well, I want to -- regulations don't include that as far as tree preservation is concerned. They should. The plans they present should be included how far the -- I always assume that yes, that it is, and that but -- we would know how far, you know, how close to a tree they were digging not simply --

MR. EIG: Okay.

SPEAKER: Yeah, this ——— our question ———
— review, we take a look at what's called the over dig when you have
to dig for a foundation there needs to be at least three --
preferably four for you to clear space outside of the wall to be
created that would trans to basement. And that's the initial
requirement of over dig.

And I think there was some extremely ———
property because of the sink hole, the ——— the basement was
the final basement, it wasn't the original basement the underground
spring on which the house sits eroded the site of the point where it
hit an excavation by nature occurred and certainly there were
multiple factors, but the over dig is something that we do look at,
and we know the extent of the excavation based on a floor plan that
we work our tree preservation accordingly.

SPEAKER: I think that the best, the kind of thing I think
that most neighbors, most residents aren't really aware, I think,
when they look at that footprint they are thinking that's what's
going to be done. And it's rather disconcerting when you see ———
———.

And I guess some of the other things that I think we ought
to consider is you know things that I think most people thought are
automatically into like one driveway. And you can limit the number
of garage I mean, in the town that have you know, two garages, I
think two garage, well, they could actually decide ——— and
I think the same two-car garage, you don't have to ———
front doors, and limit some of those things.

SPEAKER: Limit the number of driveways.

SPEAKER: -- the cars --

MS. EIG: Well, yes, limit -- yes, I think that most people until the house _____ came in and thought that we were only about to have one driveway. That was a surprise to most people.

SPEAKER: What about a circular driveway?

SPEAKER: I think that most people thought that you only had one _____ driveway unless you came in and had a request to put in something different, that you got one pair of _____ in one driveway. And I think that would make sense.

SPEAKER: Doug, if I keep talking about whether do we need to refine the FAR regulation itself to account for more -- those smaller buildings that are unappealing versus larger building that will be appealing, I am a inclined, I should get _____ suggesting _____ how the discussion went, but I am inclined to think that we should stick to our original objective of having a simple straightforward regulatory to start out with, and then if we are going to add details of offsets and so on, that should be part of the variance process. And not part of the basic regulation.

MR. KAMEROW: Well, I am going to remind to do the following things, _____. I think we are _____ -- the hours it's starting to grow a little late, we can certainly have some more discussion on this issue, but I would like -- we have meeting in two weeks, I'd like to ask _____ if he could come back to us given the new data we gotten in today in the discussions.

If he has some thoughts on what a FAR might be and whether it should include or you know, not include detached structures in a

way that would -- probably something similar to what we've heard that people might be able to have a detached structure in addition to the FAR.

But if they brought it into the house they couldn't have that sort of things, so we don't have _____ but main structures. And then what kind of whether it makes sense to have some sort of regulations that seems to be _____ things such as _____ instruction -- restriction, for what we think about most of them seem to think of a 50 percent lot coverage -- you know, a sort of a lot coverage requirement that would cut _____ percent _____ you know, is too low. And what it would be like if we had it also say a 35 percent as accounting _____ now, but not related to _____ services it's just you know, what about the _____ so it's kind of the shape of the package that it would -- we realize not being perfect, but we can discuss, I'd like to specifically discuss the next time the question of additional things that might be useful such a _____ walling, restrictions and what they would potentially have or how much trouble they would be as actual regulation, and also discuss question of lot coverage next time.

Like to spend a little more time tonight talking about FAR as we discussed it today with -- we should even come closer to a decision not for the number all right, we are kind of getting closer though, but how we should include or exclude detached garages or attached garages, basements, just a little more discussion on that tonight, so that we can move next time to another issue.

The other issue is _____ come pretty close to what we

want to recommend here _____.

MS. EIG: Can I ask one another detail, which is with the wall length the thing is _____ town that they have the definition for the articulation, so that somebody can't just make some kind of a minimum thing and call that the articulations that when asked to offset to give us a suggestion for that.

MS. STEPHENS: Just a tiny thing that the original definition the ignoring that you gave us on January 3rd, about habitable places generally the fine is having a five foot minimum five and notice the _____ which seems more like a habitable space --

SPEAKER: But it is habitable space.

(Laughter)

MS. STEPHENS: And when you -- unless you had a _____ -- where you counted that at two floors well, that's more than _____ five feet per floor.

SPEAKER: So it was okay, let's just spend a little more time, and I'd like to get out of here relatively soon, talking about the issue of -- I mean, I think we could have beaten this into the ground to fair amount today.

But it just seems to me that we are kind of coaxing around in the decision that we want to allow people to build the garage certainly that's detached and in fact it might be a little better to have it detached and into the _____ but we don't want to make it so that they can either build a giant seven _____ garage or a blanket FAR and they can move the whole thing into the house, and they can build a giant house.

So that you know, I think people were -- I think David or somebody outline the possibility that we could come up with an FAR for the main building and allow them, as you said 500 feet free or something like that -- maybe --

MR. JONES: Or we would allow them 5 percent _____ FAR for detached garage, and then on a -- not to exceed 500. 500 square feet is a large two parking lot _____ it is around the _____. And on a 7,500 square foot lot, _____ 6,000 square foot lot, I think that will be the smallest lot in the village with that -- I don't know of any lots that, you know, that would be 300 square feet, so that would be a one-car garage, a very small lot, a two-car garage --

SPEAKER: I am not following you -- you are saying you would do it very --

SPEAKER: Whatever -- let's say the starting point is .44 --

SPEAKER: Oh you are saying some percentage of the FAR but not more than something or --

SPEAKER: No, it's not -- your FAR is .44 _____ I am just _____ that number.

SPEAKER: Correct.

SPEAKER: Okay.

SPEAKER: And it will be a lot more _____ .49 including the detached structure, and that detached structure can't exceed 500 square feet. If you are in an extremely large plot otherwise I am going to build the to three or four cars garage.

SPEAKER: Okay. I get it. So you are saying by putting in

the car it goes to a number of feet get down from _____ on the sides of the lot.

SPEAKER: But then you get a certain rank.

MR. YEO: But I also agree that the place, if there's not one already a limit on the number of stories should be associated with the garage. We just need to avoid situations where something called a two-storey garage _____.

SPEAKER: Yeah, right, I mean, there are questions _____ that right now the garage can be -- the detached garage can be what five feet, two feet, two feet, three feet --

SPEAKER: So the egress --

MR. WINTER: Some people in the _____ are keeping the size by going to _____ five foot, five foot standard 20 standard to _____.

SPEAKER: The --

SPEAKER: So it can't be closer than five feet?

MR. WINTER: Can I -- I can't -- no, it cannot be closer to five feet and it exceeds the county's the normal version of the garage and it has to move away from both the side and the rear by a foot, and every foot that increases in height --

SPEAKER: And there isn't height in limitation on the garage.

MR. WINTER: Forty-one feet.

SPEAKER: But it doesn't say how many stories --

(Laughter)

MR. WINTER: No, it doesn't specify the stories, it only includes the --

SPEAKER: _____.

MR. WINTER: More than one storey.

SPEAKER: Yes.

MR. WINTER: But I just asked for data in the sides, the storey is _____.

SPEAKER: Because you get a _____ the floor with an exit and a storage, that's not the storey --

SPEAKER: And that is _____

SPEAKER: You are okay.

SPEAKER: Sure.

(Laughter)

SPEAKER: No, I know we got a lot of --

(Laughter)

SPEAKER: I think this is where we can be a little _____
_____. We don't have to be _____ to the storied garage
--

SPEAKER: No, as long as the _____.

SPEAKER: Huge cars.

SPEAKER: But I think that probably should _____
that's the way to go in terms of _____ kind of structures --

SPEAKER: So Nore, did you hear this discussion and could
up with some ideas along this line. Maybe --

MR. WINTER: Yes _____.

MR. KAMEROW: Yeah, so I think that might be a nice way,
isn't it. So next time we are going to discuss, we can talk about
basements. Let's talk about basement a little more. It seems like
everyone agrees that it was completely in closed basement --

SPEAKER: Right _____.

MR. KAMEROW: And then the question is -- the questions are

--

SPEAKER: Could we -- I just wanted to -- by being closed, you mean no door?

SPEAKER: I mean under the --

SPEAKER: No, I think _____ the door that goes out and upstairs --

SPEAKER: Right.

SPEAKER: And that no exterior door.

SPEAKER: Well, there is an exterior door.

SPEAKER: Most strangely you closed _____.

SPEAKER: I need a basement with low grade --

SPEAKER: Yeah, below --

SPEAKER: A 100 percent below grade, it's not -- it's doesn't count.

SPEAKER: _____.

SPEAKER: Well, it doesn't --

SPEAKER: Nobody's basement is _____.

SPEAKER: Yes. They are _____ than ours.

SPEAKER: That's right but _____.

MR. KAMEROW: Right -- let me finishing closing a second -- basement below grade called a cellar, completely below grade, no one wants a _____. That's not an issue.

SPEAKER: Right.

MR. KAMEROW: So then the question is what if there are several than other things. One is basement sticks up a little bit

and it has the classic thing when someone ——— you know, and it -- but it still doesn't slope and it still, all the way around, and maybe that's next to your entrance and goes up steps -- I say don't count that -- I say either of them because it raises the house up a little bit, but it's not, you know.

And the question comes what about the ——— whole bunch and becomes all the way around in some numbers or percentage wherever it does have 4 percent or whatever, then I think it does need to count some. And it is slopes we have to figure out a way, but maybe less because as most people point out with the places the golf course is behind no one cares if it faces me.

SPEAKER: Right.

MR. KAMEROW: If it faces me I care because I am ——— — this house, because the ——— it looks like three stories.

SPEAKER: ———.

MR. KAMEROW: Right, so I think that the golf which one is the right, ——— the one facing me or the one faces the golf --

SPEAKER: Golf --

MR. KAMEROW: Okay. So the people would come in and that was my opinion I agree with that.

SPEAKER: No, except the one faces the golf course I mean, it has neighbors on the side, and you don't know what the impact is --

SPEAKER: They are not, but they are not looking at it, I mean we have -- we do have the ——— statistics which show us that three of the non-conforming houses are on West

Clement Street which gives us a clear indication that we had a problem, ——— Magnolia where we know that there are houses that ——— every single house on Magnolia is infringing on the building restriction ———.

MR. KAMEROW: So I think that we need to come up with some way to include some aspects of the basements where there is a large exposure on by either a slant or elevated.

SPEAKER: There -- I mean, Jeff and Mike came up with some kind of the --

SPEAKER: It is just what I am ——— you have done.

SPEAKER: I mean presumably -- I mean, that may not be our final formula --

SPEAKER: And the problem is that when you include that it bounces things up, so if you know, if everybody is trying ——— or whatever you want to call it, it's not going to be that way if you include these basements, you may have to bump it up.

And that means ——— and that means that when the houses that don't have this plan they get to be ——— so think about that. Maybe we wanted to say that it doesn't include the basement.

And here's the number, and you just let it go the way it is, or may be you want to say it's the lower number and it includes the basement, give it a slant but you got to come talk to us so may be we'll waive that. You know, I mean, I just don't want to have the situation where you make the regulation with something with a slanting backyard, which is a small number of percentage wise, I

think of the village. Percentage-wise, so argue that the town is smaller --

SPEAKER: Well, the _____ most dramatic but a lot of a lot of us have different, I mean we _____ I don't see the slant -- most of these houses between Irvine and Renton _____.

SPEAKER: And so my concern is really what happens then if you allow that -- you count that and therefore you increase the FAR and therefore the people who don't have one get a really big house, the people who are not --

SPEAKER: This is _____ we are trying to regulate here, is _____ you know, house _____.

SPEAKER: Right.

SPEAKER: Okay. So we have to come up with a formula for something big being considered a basement because if they -- if the house is built on a slab even though _____ the first _____ in the ground, that's not a way _____ the first floor and then you know, we are all surrounded, we shouldn't count that, but you could partially, I mean, you have to come up with some kind of a formula at the time what percentage of it we are going to include.

And I tended to -- I tend to things that we go with the distinction of the basement, the cellar despite the fact that that language is somewhat difficult to understand. If I show that regard to the people of your houses, am I correct Jeff, and that they would have no trouble understanding here between a cellar and a basement?

So you are considering some work, you are going to have higher somebody any how they can explain to you what that is, but I

think we are trying to regulate a massive scale, something that is predominantly in the ground. And it doesn't effect _____.

SPEAKER: Well, what about from the back when _____
— would you regulate that --

MR. WINTER: Can I make a comment?

SPEAKER: Yes.

MR. WINTER: Following _____ suggestion about treating detached garages with a _____ by using a _____ formula to allow the garage _____ so sizeable to treat them _____ part of the _____ or a house is assumed to be in a _____ — and then there would be a _____ allowed for a basement that is to some degree or another exposed on one side or down the hill.

SPEAKER: So that's the specific thing if you can add on with that --

SPEAKER: Nore, is that _____ did you know what Jeff said?

MR. WINTER: No, the I think _____ and basically I think there are three categories out there the basement, and a FAR, a primary _____ structure and then a separate _____ segment is _____ detached structure, _____ formula, I think that's different and we have one for the low grade — _____ for the _____ I'll come back with
--

SPEAKER: Okay. Then _____

SPEAKER: Okay.

(Whereupon, the PROCEEDINGS were continued.)